**EXHIBIT B** 

Declaration of Jose Leano

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1	DAVID M.C. DEWEDCON	
2	DAVID M.C. PETERSON California State Bar No. 254498	
3	FEDERAL DEFENDERS OF SAN DIEGO, II 225 Broadway, Suite 900	NC.
	San Diego, California 92101-5008	
4	Telephone: (619) 234-8467 E-mail: david_peterson@fd.org	
5	Attorneys for Mr. Haynes	
6	Transition via rayles	
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9	UNITED STATES DISTRICT COURT	
10	SOUTHERN DISTRICT OF CALIFORNIA	
11	(HONORABLE DANA M. SABRAW)	
12		
13	UNITED STATES OF AMERICA,	) Case No. 08cr0366-DMS )
14	Plaintiff,	) DECLARATION OF JOSE G. LEANO )
15	v.	
16	JAMES HAYNES, III,	) )
17 18	Defendant.	) )
19		)
20	I, Jose G. Leano, declare under penalty of perjury:	
21	1. I am an investigator employed by the Federal Defenders of San Diego, Inc. I have been	
22	employed at Federal Defenders for 15 years.	
23		
24	2. As a part of my work, I view vehi	cles, inspect them, and when necessary conduct experiments
25	on them.	
26	3. In addition to my work at Federal Defenders, I have over 25 years of experience working with	
27	cars, trucks, and SUVs, including work on engines, bodies, and suspension.	
28	4. On May 30, 2008, I conducted an experiment to determine how far the rear of a 2005 Nissar	
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Pathfinder goes down when loaded with between 600 and 875 pounds in the rear cargo compartment.

- 5. The vehicle I used was a 2005 Nissan Pathfinder SE Offroad Four-wheel-drive.
- 6. The vehicle I viewed in the above-captioned case was a 2005 Nissan Pathfinder SE Fourwheel-drive.
- 7. Based upon my review of the available materials, it appears that the vehicle in the abovecaptioned case has a higher payload than the test vehicle.
- 8. This indicates to me that the height differential in the rear of the vehicle in the above captioned-case would, if any different, be less than the height differential in the test vehicle.
- 9. I placed the individuals in the cargo area of the test vehicle based upon my viewing of the vehicle in the above-captioned case.
- 10. I placed them in a manner consistent with the apparent location of the individuals in the back of the vehicle in the above-captioned case.
- 11. To determine the height differential, I measured the distance from the ground to the highest point in the arc of the rear, left wheel well.
  - 12. I did this before the vehicle was loaded and after the vehicle was loaded.
- 13. With a driver in the front seat weighing 141 pounds and an empty cargo area, the distance from the ground to the highest point in the arc was 2 feet and 10 and 3/8 inches.
- 14. With five individuals in the rear cargo area, and one individual in the driver seat weighing 144 pounds, the distance from the ground to the highest point in the arc was 2 feet and 8 and 3/8 inches.
  - 15. I weighed those five individuals and determined their total weight to be 876 pounds.
  - 16. The difference between the "loaded" vehicle and the "unloaded" vehicle was 2 inches.
- 17. I took every effort to conduct this experiment in a manner that can be repeated at will. I photographed, weighted and recorded all of the weights of the occupants. Additionally, I took photographs

photographed, weighed and recorded all of the weights of the occupants. Additionally, I took photographs of my measurements.

18. I believe that any similar experiment on a 2005 Nissan Pathfinder will have roughly the same results.

I so declare this 20 day of June, 2008, in San Diego, California.

JOSE G. LEANO, Declarant